

(323) 881-2401

October 23, 2002

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**COMMUNITY RECREATION AGREEMENT
FOR LIFEGUARD SERVICES
CITY OF SANTA MONICA (3RD DISTRICT) (3 VOTES)**

IT IS RECOMMENDED THAT YOUR HONORABLE BOARD, ACTING AS THE GOVERNING BODY OF THE CONSOLIDATED FIRE PROTECTION DISTRICT:

Approve and instruct the Chairman of the Board to sign the attached Community Recreation Agreement for Lifeguard Services (Agreement) between the County of Los Angeles (County) and the City of Santa Monica (City) that provides for the continued provision of lifeguard services to the City by the County, to be effective December 1, 2002.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

The prior Agreement between the City and the County to provide lifeguard services has continued in accordance with its terms on a month-to-month basis since June 2002 while negotiations for a new Agreement were occurring. As a result of those negotiations, the attached proposed Agreement authorizes the County to continue to provide lifeguard services to the City for the period of December 1, 2002 through December 31, 2006.

FISCAL IMPACT/FINANCING:

In 1994-95, the County of Los Angeles, the Chief Administrative Office, the Department of Beaches and Harbors, and the Fire Department worked together to define County and City financial obligations for beach services within the County. For the City of Santa Monica, a base amount was agreed upon and established, and this amount has been increased by the Consumer Price Index (CPI) each year in accordance with the existing Agreement. The City's local cost share of \$1,293,030 for Fiscal Year 2001-02 will be adjusted by the CPI for the 12-month period ending June 2002, and will be annually adjusted by the CPI. Revenue from this Agreement is included in the Department's 2002-03 Adopted Budget and helps offset the County General Fund share of Lifeguard Division costs.

In addition, the City agreed to reserve an additional \$125,000 a year for the first four (4) years for improvement and expansion of lifeguard facilities located at Santa Monica State Beach. The accumulated \$500,000 will be used for renovations, replacement or expansion of lifeguard facilities as mutually agreed upon between the City and the County.

Approval of this Agreement will allow for continued and uninterrupted Fire Department lifeguard services to the public beaches throughout the County.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The proposed Agreement will be effective from December 1, 2002 to December 31, 2006. Additionally, upon mutual consent between City and County, the proposed Agreement may be extended for two additional five-year periods on the same terms and conditions. County Counsel has approved this Agreement as to form. This Agreement replaces prior Agreement No. 71356.

The Santa Monica City Council approved this Agreement on September 24, 2002.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

The proposed Agreement allows the continued provision of lifeguard services to the City. No adverse impact on current services will occur.

CONCLUSION:

Please instruct the Executive Officer, Clerk of the Board to return the following to this office:

- Two (2) copies of the Minute Order and/or this approved letter, as applicable.
- Three (3) executed original Agreements and two (2) copies of the Agreement.

The Fire Department will return two (2) original Agreements to the City of Santa Monica per the City's request.

Respectfully submitted,

P. MICHAEL FREEMAN

PMF:at

Attachment

c: Chief Administrative Officer
County Counsel
Auditor-Controller
Executive Officer, Board of Supervisors
Louisa Ollague
Randi Tahara
Joseph Charney
Matt Knabe
Jennifer Plaisted

1 **COMMUNITY RECREATION AGREEMENT**
2 **FOR LIFEGUARD SERVICES**
3 **BETWEEN THE COUNTY OF LOS ANGELES AND**
4 **THE CITY OF SANTA MONICA**
 W I T N E S S E T H

5 **THIS AGREEMENT** is made and entered into this ____ day of _____, 2002,
6 by and between the City of Santa Monica, hereinafter referred to as "CITY," and the
7 COUNTY OF LOS ANGELES, hereinafter referred to as "COUNTY."

8 WHEREAS, the State of California is the owner of beach property along the
9 waterfront of the CITY, known as Santa Monica State Beach (hereinafter referred to as
10 the "BEACH");

11 WHEREAS, the CITY has an agreement with the State of California (3717 CCS)
12 for the operation of the BEACH;

13 WHEREAS, the CITY and the COUNTY have an operating agreement entitled
14 "Community Recreation Agreement for Lifeguard Services between the County of Los
15 Angeles and the City of Santa Monica" dated April 21, 1998 (hereinafter referred to as
16 the "Prior Agreement");

17 WHEREAS, the CITY and the COUNTY are desirous of entering into an
18 agreement whereby the COUNTY will continue to provide lifeguard services to the
19 BEACH;

20 WHEREAS, such lifeguard services will promote and preserve the health and
21 general welfare of the public;

22 WHEREAS, the COUNTY requires financial assistance from CITY in order to
23 continue to provide lifeguard services at the BEACH;

24 WHEREAS, the COUNTY has developed a methodology for apportioning the
cost of lifeguard services amongst the municipal agencies that own or have control over

1 the beaches throughout the COUNTY's jurisdiction in order to provide funding for the
2 provision of such services; and

3 WHEREAS, this agreement is authorized pursuant to Chapter 10, Part 7 of
4 Division 1, commencing with Section 10900, of the California Education Code.

5 NOW, THEREFORE, in consideration of these mutual covenants, the parties
6 hereto agree as follows:

7 **1. TERM**

8 1.01 The term of this agreement shall be from December 1, 2002 to December 31,
9 2006, with the parties understanding that, in the interest of public safety, termination of
10 this agreement shall not occur during the months of June, July, August or September.

11 1.02 Subject to mutual consent in writing between the CITY and the COUNTY, this
12 agreement may be extended for two additional five-year periods on the same terms and
13 conditions specified in this agreement. The CITY must inform the COUNTY in writing at
14 least one year prior to the end of this agreement of the CITY's intention to request an
15 extension of or to allow expiration of this agreement. If an extension is requested, the
16 COUNTY shall respond to the CITY in writing to advise whether the COUNTY consents
17 to such extension within sixty (60) days of receiving the request.

18 1.03 Notwithstanding the expiration of the term of this agreement, this agreement
19 shall continue on a month-to-month basis until a new agreement is in place should both
20 parties mutually agree in writing to negotiate an agreement for the continued provision
21 of COUNTY lifeguard services. In the event the parties are unable to negotiate a new
22 agreement, either party may terminate the agreement on one year's prior written notice.

23 1.04 CITY and COUNTY agree that in the event that the CITY's jurisdictional or
24 operational authority of the BEACH is either reduced or increased, both parties will in
good faith promptly renegotiate the financial obligations of the CITY to the COUNTY in
this agreement.

1 **2. OBLIGATIONS OF CITY AND COUNTY**

2 2.01 The COUNTY agrees to perform lifeguard services to the BEACH. Such
3 services are described on Exhibit A, attached hereto and included herein by this
4 reference. The COUNTY shall meet with the CITY, as appropriate, to review ongoing
5 costs and service-level requirements. Staffing levels and patterns shall be established
6 and adjusted by the COUNTY in accordance with Exhibit A.

7 2.02 The County shall prepare quarterly invoices during the term of this agreement
8 showing the CITY's annual financial obligation to the COUNTY, as stated in Paragraph
9 2.02.01 herein, divided into four equal payments. The invoices shall be provided to the
10 CITY on or before each September 30, December 31, March 31, and June 30 (for
11 example, for services provided by the COUNTY to the CITY for the fiscal year July 1,
12 2002 to June 30, 2003, the COUNTY shall bill the CITY by December 31, 2002, March
13 31, 2003, and June 30, 2003). The CITY shall pay the invoices no later than October
14 31, January 31, April 30 and July 31. This payment schedule may be changed upon the
15 written mutual consent of both the City Manager of the CITY and the Fire Chief of the
16 Los Angeles County Fire Department.

17 2.02.01 The COUNTY and the CITY agree to use 2001-02 fiscal year's financial
18 obligation to COUNTY of \$1,293,030 as the base year (Base Year Amount) to
19 determine the CITY's annual financial obligation to COUNTY each fiscal year thereafter.
20 The COUNTY shall determine the CITY's annual financial obligation by adjusting the
21 preceding year's total financial obligation to the COUNTY by the percentage increase or
22 decrease in the Consumer Price Index for the "Urban Wage Earners and Clerical
23 Workers, Los Angeles-Anaheim-Riverside area" (CPI) for the 12-month period ending in
24 June for the preceding fiscal year. To determine the CITY's annual financial obligation
for the 2002-03 fiscal year, the Base Year Amount will be adjusted by the CPI for the
12-month period ending June 2002.

2.02.02 The COUNTY recognizes that the CITY's BEACH revenue fluctuates on
a two- or three-year cycle. In the event the annual amount calculated pursuant to

1 2.02.01 hereinabove exceeds 36% of the CITY's gross revenues from the BEACH for
2 the same fiscal year, the annual amount exceeding 36% of CITY's gross revenues from
3 the BEACH may, at the discretion of the CITY, be paid within two years of its due date
4 without accruing interest or penalty. Gross revenues are defined to include but not be
5 limited to revenues received from the operation of the BEACH by the CITY, including
6 parking lots, concessions, and leases located on the BEACH.

7 After the CITY's election to carry over payments, all amounts carried over must
8 be paid in full by the CITY within two years of its due date or interest will accrue at the
9 rate of 2% per month on the overdue balance commencing on the first day after the due
10 date for payment of the carry over amounts. In the event of an extraordinary economic
11 circumstance or natural catastrophe which results in unforeseen impacts on the
12 performance of either or both the COUNTY and the CITY under this agreement, the
13 COUNTY and the CITY agree to meet and confer in good faith regarding service level
14 adjustments and corresponding operating expenditures.

15 2.02.03 The COUNTY, at its own expense, shall be responsible for the
16 maintenance, repair and replacement of lifeguard towers.

17 2.02.04 The COUNTY shall perform day-to-day maintenance and all routine and
18 minor repairs (collectively referred to as "routine repairs") of the Lifeguard Headquarters
19 located at 1642 Ocean Front Walk so long as the COUNTY occupies that facility in
20 conjunction with lifeguard operations. "Routine repairs" shall include but not be limited
21 to the following: repair or replacement of doors; floor covering; incidental plumbing and
22 electrical repairs; heating and air conditioning repairs; exhaust fan replacement; and
23 additional cabinets for offices and/or lockers. The COUNTY shall be responsible for
24 routine repairs up to \$25,000 during the first year of this agreement. For the second
through fifth years of this agreement, the COUNTY's specified share for routine repairs
shall be increased up to the following:

Year 2 \$26,250

Year 3 \$ 27,563

1 Year 4 \$ 28,941

2 Year 5 \$ 30,388

3 If the amount of routine repairs are in excess of COUNTY's specified
4 share per year, COUNTY may notify CITY in writing detailing additional needed routine
5 repairs and corresponding cost estimates. CITY shall grant COUNTY additional
6 funds at its sole discretion for approved repairs contingent upon available BEACH
7 revenues.

8 Contingent upon available CITY revenues, the CITY shall grant funds to
9 the COUNTY to support any repairs that are not routine repairs described in this Section
10 2.02.04. Any non-routine repairs hereinafter shall be referred to as "major repairs" and
11 shall include foundation repair, major structural integrity compromise, roof replacement,
12 and extensive repairs due to catastrophic events such as flooding, fire or earthquakes.
13 Requests for funding from the CITY for major repairs shall be made in writing by the
14 COUNTY and presented to the CITY. Requests shall include an itemized list of needed
15 repairs, cost proposal and implementation timeline. CITY and COUNTY shall mutually
16 agree upon a construction timeline to ensure continuance of all services pursuant to this
17 agreement. COUNTY shall make reasonable efforts to obtain additional funds for major
18 repairs from other entities receiving lifeguard services from the Lifeguard Headquarters
19 needing the repairs.

17 3. OBLIGATIONS OF THE CITY

18 3.01 The CITY shall make quarterly payments to the COUNTY as invoiced by the
19 COUNTY to fulfill the CITY's annual financial obligations pursuant to Article 2
20 hereinabove.

21 3.01.01 Each CITY quarterly payment shall be in the form of a check, payable to
22 County of Los Angeles, mailed or otherwise delivered to the Los Angeles County Fire
23 Department, Post Office Box 54740, Los Angeles, CA 90054-0740, or as otherwise
24 directed in writing by the Fire Chief of the Los Angeles County Fire Department or his
designee.

1 3.02 The CITY, at its own expense, shall provide all BEACH maintenance, BEACH
2 cleaning, and animal control services on the BEACH.

3 3.03 The CITY shall provide free permit parking for any COUNTY employees
4 performing services under this agreement.

5 3.04 The CITY shall provide to the COUNTY sufficient space, in the Harbor Patrol
6 office or other adjacent locations at the end of the Santa Monica Pier, for the installation
7 of COUNTY radio communications equipment at no expense to the CITY. Only
8 necessary equipment to maintain lifeguard communications will be placed in service at
such location and shall be installed only after receiving written approval from the CITY.

9 3.05 The CITY shall notify the COUNTY of any major property development
10 proposals which could impact lifeguard services to the BEACH. The CITY and the
11 COUNTY shall cooperate in their efforts to ensure the developer mitigates any
12 additional costs arising from such development in the COUNTY's provision of lifeguard
13 services to the BEACH.

14 3.06 The CITY shall reserve funds for the purpose of improving or expanding
15 Lifeguard Facilities located at the BEACH. Lifeguard Facilities shall include the
16 Lifeguard Headquarters located at 1642 Ocean Front Walk and any future Lifeguard
17 Substations to be located on the BEACH. The CITY agrees to reserve \$125,000 a year
18 for the first four (4) years of this agreement. The accumulated funds of \$500,000 shall
19 be used for renovations, replacement or expansion of Lifeguard Facilities. Amounts
20 reserved by CITY for the above purpose pursuant to this paragraph are in addition to
21 any financial obligations of the CITY pursuant to Article 2, OBLIGATIONS OF CITY
22 AND COUNTY, hereinabove. CITY and COUNTY shall meet annually to assess long-
23 term facility needs and, prior to the fourth year of this agreement shall, upon mutual
24 agreement, develop a Lifeguard Facility Capital Improvement Plan (Plan). CITY shall
assume lead responsibility for implementation of the Plan. COUNTY shall make

1 reasonable efforts to obtain financial support from other jurisdictions receiving services
2 from those Lifeguard Facilities specified in the Plan.

3 3.06.01 The CITY shall be responsible for planning and constructing or
4 remodeling of the Lifeguard Headquarters. The COUNTY agrees to assist with plan
5 development, review and permitting of this project. The CITY agrees to work with the
6 COUNTY in plan development and review throughout the project.

7 3.06.02 Within the limits of the accumulated funds of \$500,000 to be used for
8 improving or expanding the Lifeguard Facilities, CITY shall begin construction of the
9 Lifeguard Facilities, as specified in the Plan, prior to the end of the term of this
10 agreement and be completed within two years unless otherwise authorized in writing by
11 the COUNTY. In the event this agreement is not renewed or is allowed to expire on
12 December 31, 2006, the CITY is not obligated to implement the Plan.

11 **4. PUBLIC IMPROVEMENTS**

12 4.01 The CITY shall provide the COUNTY with thirty (30) days' written notice prior to
13 any work of public improvement being done on the BEACH by the CITY, its agents,
14 employees, or contractors.

15 4.02 The COUNTY shall not undertake any physical construction, alteration, or other
16 work of public improvement on the BEACH without the prior written consent of the CITY.

17 4.03 The CITY shall grant the COUNTY ingress and egress rights of heavy
18 equipment for the purposes of moving lifeguard towers and to breach storm drains as
19 determined by County of Los Angeles Department of Public Works.

20 **5. SPECIAL EVENTS AND FILM PERMITS**

21 The CITY agrees to give the ranking lifeguard reasonable advance written notice of
22 any permit the CITY may issue for filming or other special events to be conducted by
23 third parties on the BEACH.

24 **6. COUNTY MARKETING PROGRAM AND TRAINING**

1 6.01 The CITY authorizes the COUNTY to continue to display marketing program
2 sponsor or donor names, or their product names, on COUNTY tideboards, trucks,
3 uniforms, rescue boats, and other lifeguard equipment or any other equipment or
4 vehicle that is provided by the COUNTY pursuant to Article 2 of this agreement.
5 Name/product identification shall be displayed only on equipment that is involved in
6 providing a public service. Name/product identification shall not be used to directly
7 solicit the sale of any product. The COUNTY shall not permit name/product
8 identification displays involving alcoholic beverage or tobacco related products. The
9 COUNTY shall not display the name of any marketing program sponsor or donor, or the
10 name of their products, on the BEACH under this agreement in any fashion, other than
11 as is described in this paragraph, without prior written approval from the CITY.

12 6.02 The CITY agrees to allow the COUNTY to hold an annual swim training event
13 (“TRAINING EVENT”) on the BEACH. The CITY waives the application processing fee
14 and any associated parking fees for this TRAINING EVENT. The COUNTY is required
15 to submit a complete event application to the CITY at least ninety (90) days prior to the
16 TRAINING EVENT.

17 **7. ASSIGNMENT**

18 The COUNTY may assign, delegate, or transfer this agreement, either in whole or in
19 part, at its sole discretion, to the Consolidated Fire Protection District of Los Angeles
20 County. The COUNTY may also assign, delegate, or transfer, either in whole or in part,
21 this agreement to any other public agency with the prior written consent of the CITY. In
22 the event of assignment, the assignee of the COUNTY shall have all rights and assume
23 all the obligations of the COUNTY under this agreement.

24 **8. NOTICES**

All written notices pursuant to this agreement shall be addressed as set forth below
and shall be personally delivered or sent through the United States mail, postage
prepaid and addressed to such persons and addresses as the parties may designate

1 over the term of this agreement. Upon the commencement of this agreement, such
2 notices shall be addressed as follows:

3 CITY: Director,
4 Community and Cultural Services Department
5 City of Santa Monica
6 1685 Main Street

7 COUNTY: Santa Monica, CA 90401
8 Fire Chief,
9 Los Angeles County Fire Department
10 1320 North Eastern Avenue
11 Los Angeles, CA 90063

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14 **9. INDEMNIFICATION**

15 Neither party shall be liable for the negligent or wrongful acts of the other in the
16 performance of this agreement. CITY agrees to indemnify, defend, and hold harmless
17 the COUNTY, its agents, officers, and employees from any and all claims, demands,
18 liabilities, and expenses, including reasonable attorney's fees, arising from the negligent
19 or wrongful acts of CITY in the performance of this agreement. COUNTY agrees to
20 indemnify, defend, and hold harmless the CITY, its agents, officers, and employees
21 from any and all claims, demands, liabilities, and expenses, including reasonable
22 attorney's fees, arising from the negligent or wrongful acts of COUNTY in the
23 performance of this agreement.

24 **10. SEVERABILITY**

In the event that any provision herein contained is held to be invalid, void, or illegal
by any court of competent jurisdiction, the same shall be deemed severable from the
remainder of this agreement and shall in no way affect, impair or invalidate any other
provision contained herein. If any such provision shall be deemed invalid due to its
scope or breadth, such provision shall be deemed valid to the extent of the scope or
breadth permitted by law.

11. WAIVER

1 No breach of any provision hereof can be waived unless in writing. Waiver of any
2 one breach of any provision shall not be deemed to be a waiver of any breach of the
3 same or any other provision hereof.

4 **12. ENTIRE AGREEMENT**

5 This agreement, constitutes the entire agreement between the COUNTY and the
6 CITY for services to be performed, and may be modified only by further written
7 agreement between the parties hereto. The non-enforceability, invalidity, or illegality of
8 any provision of this agreement shall not render the other provisions thereof
9 unenforceable, invalid, or illegal.

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11 **IN WITNESS WHEREOF**, the City of Santa Monica, by action of its City Council, has
12 caused this agreement to be duly executed, and the County of Los Angeles, by order of
13 its Board of Supervisors, has caused this agreement to be executed on its behalf by the
14 Chairman of said Board and attested by the Clerk thereof on the day and year
15 hereinbelow.

16 **CITY OF SANTA MONICA**

16 **COUNTY OF LOS ANGELES**

17 By _____
18 Susan E. McCarthy
19 City Manager

17 By _____
18 Chairman, Board of Supervisors

19 Date _____

19 Date _____

20 ATTEST:

20 ATTEST:

21 CITY CLERK

21 VIOLET VARONA-LUKENS

22 Executive Officer-Clerk of
23 the Board of Supervisors

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By _____
Maria Stewart
City Clerk

By _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY

APPROVED AS TO FORM:
LLOYD W. PELLMAN
County Counsel

By _____
Marsha Jones Moutrie
City Attorney

By _____
Deputy

EXHIBIT A

LIFEGUARD SERVICES

The County shall provide lifeguard services to the Beach within the jurisdiction of the City of Santa Monica, which shall include daily lifeguard coverage, seasonal and intermittent tower lifeguard coverage, and supervision and management of the lifeguard services as required for the time of year and Beach conditions, 24-hour dispatch and response capability, and rescue boat response. County shall also provide other resources as may be available on an as-needed basis to meet specific emergency requirements as determined by County in its sole discretion.